

PUBLIC VERSION

**NOTICE SEEKING CLEARANCE OF A BUSINESS ACQUISITION PURSUANT TO
SECTION 66 OF THE COMMERCE ACT 1986**

15 October 2015

The Registrar
Competition Branch
Commerce Commission
PO Box 2351
WELLINGTON

Pursuant to section 66(1) of the Commerce Act 1986, notice is hereby given seeking **clearance** of a proposed business acquisition.

EXECUTIVE SUMMARY

- 1 Rheem New Zealand Limited (**Rheem**) seeks clearance to acquire the business and assets of Peter Cocks (2010) Limited (**Peter Cocks**) (the **Proposed Transaction**).
- 2 Rheem manufactures and distributes a full range of water heaters for both domestic and commercial use throughout New Zealand. Peter Cocks manufactures and distributes mains pressure and low pressure electric water heaters including solar tanks, wetback and dairy water heaters, predominantly in the South Island.
- 3 The relevant market for the purpose of this application is the nationwide supply of hot water heaters to wholesalers.
- 4 No substantial lessening of competition is likely to arise as a consequence of the Proposed Transaction because:
 - The merged entity will remain constrained by a number of large and well-resourced existing manufacturers and distributors of water heaters.
 - Since Paloma acquired Southcorp Water Heaters in 2002, imports have increased, there has been significant technological innovation and a material decrease in average selling prices of water heaters. This is indicative of a rigorously competitive market.
 - Barriers to entry for new market participants and barriers to expansion for existing competitors are low and the potential entry and expansion satisfies the LET test.
 - Large distributors and plumbing merchants have countervailing power.

PART A: TRANSACTION DETAILS

PARTY DETAILS

1 The Applicant

1.1 This notice is given by Rheem.

1.2 Details for Rheem are:

Rheem New Zealand Limited
475 Rosebank Road
Avondale
Auckland 1026
New Zealand

<http://www.rheem.co.nz/>

Attention: Steve Bullock
Position: General Manager
Telephone: +64 9 829 0200
Email: steve.bullock@rheem.co.nz

1.3 All correspondence and notices in respect of this application should be directed in the first instance to:

DLA Piper New Zealand
PO Box 160
AUCKLAND 1140

Attention: Mark Williamson / Lucy Gaffikin
Telephone: +64 9 300 3857 / +64 9 300 3835
Email: mark.williamson@dlapiper.co.nz
lucy.gaffikin@dlapiper.co.nz

1.4 A diagram showing the organisational structure of Rheem is set out in Confidential Appendix 1.

1.5 There are no pre-existing links between Rheem and Peter Cocks or as between any of their respective group companies.

2 The other merger party

2.1 The other party is Peter Cocks.

2.2 Details for Peter Cocks are:

Peter Cocks (2010) Limited
114 Maces Road
Bromley
Christchurch 8062
New Zealand

<http://www.petercocks.co.nz/>

Attention: John Cagney
Position: Owner
Telephone: +64 (027) 435 6733
Email: john@petercocks.co.nz

- 2.3 All correspondence and notices in respect of this application should be directed in the first instance to:

PWC
PO Box 13244
CHRISTCHURCH 8053

Attention: Maurice Noone
Telephone: +64 (021) 343 543
Email: Maurice.noone@nz.pwc.com

- 2.4 A description of the organisational structure of Peter Cocks is set out in Appendix 2.

3 About the Parties

Rheem

- 3.1 Rheem is a wholly owned subsidiary of Rheem Australia Pty Limited, which is part of the Paloma group based in Japan. The ultimate holding company of Rheem Australia Pty Limited is Paloma Co Limited (**Paloma**), a privately held Japanese company, which produces gas appliances, including water heaters. Paloma products are sold throughout the Americas, Asia and in Australia and New Zealand.¹ Paloma purchased Rheem from Southcorp Limited in 2002 (a transaction cleared by the Commerce Commission).²
- 3.2 Rheem has manufactured water heaters in New Zealand since the late 1960s and has a major manufacturing operation in Avondale, Auckland. Approximately [] of its products are manufactured in this plant (with the balance being imported).
- 3.3 Rheem manufactures a full range of water heaters for both domestic and commercial use. This includes:
- 3.3.1 Electric water heaters (both low and mains pressure).
 - 3.3.2 Gas water heaters (both continuous flow and storage).
 - 3.3.3 Heat pump water heaters.
 - 3.3.4 Solar water heaters.
 - 3.3.5 Mains pressure calorifiers.³
 - 3.3.6 Boiling and chilled water units.⁴

¹ Paloma branded gas water heaters are imported into New Zealand and distributed by an unrelated company, Aber Holdings Limited (**Aber**). Since 2002, Rheem has also imported Paloma gas water heaters but these have been branded Rheem rather than Paloma.

² New Zealand Commerce Commission, *Decision No. 452 - Paloma Industries Limited and Southcorp Water Heaters New Zealand Limited* (18 January 2002).

³ Water is increased in temperature by circulating it around heated coils.

- 3.4 A division of Rheem, Hermetic New Zealand, is a significant producer of tubular electric water heater elements.
- 3.5 Rheem distributes its products nationwide largely through dedicated plumbing merchants⁵, with a small percentage of its products [] being sold through large building merchants (including Carters, Mitre 10, Bunnings, Placemakers and ITM). Plumbing merchants and distributors then sell to plumbers who on-supply the products to consumers (ie homeowners). While Rheem focuses its sales activities on merchants and distributors, Rheem has a range of activities designed to foster relationships with, and provide support to plumbers. Plumbers have a major role in influencing the type of products that are supplied to consumers (a consumer may not even be aware of the type of hot water cylinder supplied). For new home builds, the type of water heater may also be specified by the builder.
- 3.6 Plumbing merchants are commonly requested to bid for packages which include the supply of water heaters. The pricing of the water heater component is commonly viewed as a ‘marker’ for the competitiveness of the bid, putting downward competitive pressure on pricing.
- 3.7 Rheem does not have any exclusive supply agreements with its distributors.
- 3.8 Peter Cocks is a privately owned family business whose main presence is in the South Island although [] of the sales of Peter Cocks (by volume) are in the North Island. Peter Cocks supplies mains pressure and low pressure electric water heaters, including solar tanks, wetback⁶ and dairy water heaters.⁷ Water heaters are supplied for both domestic and commercial use.
- 3.9 Solar water heaters are essentially standard electric water heaters with an additional heating source, being solar panels installed on the roof of the relevant premises which heat the water by absorbing energy from the sun. The upfront cost is much higher but the consumer saves on electricity cost, particularly in the summer. Peter Cocks only sells the cylinders which can then be connected to solar panels. This contrasts with Rheem that sells both cylinders and panels separately and as a package.
- 3.10 Peter Cocks was established by Peter Cocks in 1965. It is currently owned indirectly by John Cagney and associated interests. Peter Cocks manufactures low pressure copper cylinders fully in-house but for mains pressure, it imports stainless steel cylinders from the UK before finishing the products in its Christchurch factory.
- 3.11 Peter Cocks distributes its products predominantly in the South Island mainly through dedicated plumbing merchants with a small percentage through large building merchants and solar specialists.
- 3.12 Peter Cocks does not have any exclusive supply agreements with its distributors.

⁴ Boiler and chilled water units are generally not considered part of the water heater market.

⁵ See Confidential Appendix 7 for details of key customers.

⁶ A wetback is a pipe arrangement that fits in the back of a firebox. Water from the hot water cylinder is circulated through these pipes, sometimes by a small pump, and is heated using some of the heat from the fire. For mains pressure wetback systems, a stainless steel coiled cylinder is the preferred storage method.

⁷ Dairy water heaters are specialist units which can only be used in dairy sheds (they are neither low nor mains pressure but simply act as a storage unit). However, they are substitutable from a supply perspective as evidenced by the fact that a number of players including Rinnai, Peter Cocks and Rheem produce Dairy water heaters in addition to their standard commercial offerings.

THE PROPOSED TRANSACTION

4 Transaction details

Outline and structure of the transaction

- 4.1 The transaction involves the acquisition by Rheem of the business and assets of Peter Cocks. The transaction is conditional on a range of matters including clearance from the Commerce Commission.

Rationale for the merger

- 4.2 []

Ancillary agreements

- 4.3 There are no ancillary agreements associated with the Proposed Transaction.

5 Copies of transaction documents

- 5.1 A copy of the Sale and Purchase Agreement entered into on 16 September 2015 is provided at Confidential Appendix 3.

6 Notification of other competition agencies

- 6.1 There are no other competition agencies being notified of the Proposed Transaction.

PART B: THE INDUSTRY

7 Lower pressure vs. mains pressure

- 7.1 Traditionally in New Zealand, the most common hot water cylinders have been made of copper, which is durable but can withstand only limited pressure. Pressure is reduced by running the mains water through a pressure reducing valve⁸ into the hot water cylinder. As the water is heated, it expands and the pressure is relieved by the water rising in a vent pipe up through the roof or through a pressure relief valve. Low pressure systems are defined as storing water at below 120 kPa. Installations using low pressure cylinders generally have high pressure cold water supplies meaning that hot and cold water are not delivered at the same pressure.

- 7.2 In contrast, mains pressure delivers hot and cold water at the same or approximately the same pressure. This requires a steel or stainless steel cylinder and a combination of valves and fittings to give consistent hot and cold flow.

- 7.3 From a manufacturing perspective, the only real difference between low and mains pressure is the inside metal tank. All cylinders are made with a metal inner tank consisting of a welded shell with two ends welded on to form the cylinder shape. Low pressure is traditionally made using thin copper inner tanks. Mains pressure is made using thicker steel or stainless steel. Steel is commonly vitreous enamel coated to prolong its life. It should be noted that although low pressure cylinders are traditionally made of copper, Rheem manufactures and sells low pressure cylinders made from vitreous enamel coated steel and

⁸ Also called a “feed valve” or “Ajax valve”.

Peter Cocks and Rinnai both make and sell low pressure cylinders made from stainless steel. All mains pressure cylinders can be installed and operated as low pressure cylinders but low pressure cylinders cannot be installed and operated as mains pressure.

7.4 Low pressure cylinders have traditionally been cheaper to manufacturer but the difference has narrowed in recent years due to improvements in technology.

7.5 Estimated New Zealand low pressure sales are 20,500 per annum compared to estimated mains pressure sales 32,600 per annum. Rheem has estimated these figures based on total electric storage sales reported to Energy Efficiency and Conservation Authority (EECA) (see Appendix 8). Rheem sales are approximately [] mains pressure and [] low pressure (by volume). Peter Cocks sales are approximately [] mains pressure and [] low pressure (by volume).

8 Development since 2002

8.1 As noted, the Commission reviewed competition in 2002 and reached the view that the market for the supply of water storage heaters to wholesalers in New Zealand was competitive and that the acquisition by Paloma of Rheem (then Southcorp Water Heaters) was not likely to substantially lessen competition.

8.2 Significant technological innovation and a material decrease in average selling prices of water heaters since that time are indicative of a rigorously competitive market. More specifically, since 2002:

8.2.1 Use of low pressure copper cylinders (as opposed to mains pressure) has decreased so that, as indicated above, they are no longer the dominant product. A range of parties now import mains pressure systems.

8.2.2 Sales of gas continuous flow water heaters have increased significantly to 31,000 units per year which is similar to sales of mains pressure electric storage systems.⁹

8.2.3 Numerous solar and heat pump water heater manufacturers and importers have entered the market.

8.2.4 Industry energy efficiency standards were introduced by the EECA in 2002 through the implementation of minimum energy performance standards (MEPs).

9 Likely future industry trends

9.1 The trend towards more energy efficient technologies such as solar and heat pump water heaters is likely to continue. These require more complex storage cylinders, in some cases with one or two coils, along with more intelligent controllers to optimise energy use.

9.2 Imports from low labour cost regions such as Asia are likely to increase, placing further pressure on prices in New Zealand. Rheem is increasingly seeing examples of imported water heaters listed for sale on forums such as Trade Me.

⁹ Based on reported total imports of gas continuous flow water heaters from Japan. See Appendix 8.

- 9.3 There is an excess of manufacturing capacity in Australia, which is expected to significantly increase in light of the recent Rinnai Australia announcement to open a new factory.¹⁰ This is likely to increase imports from Australia, again putting downward pressure on prices.
- 9.4 Gas continuous flow sales are likely to continue to grow compared to electric mains pressure, as the replacement market kicks in from the large growth phase experienced in New Zealand in 1996-2001.
- 9.5 In Australia, there are examples of merchants establishing their own house-brand water heaters.¹¹ This has led to increased competition between manufacturers to import or manufacture the house-branded products. New Zealand commonly follows Australia when it comes to retailing/manufacturing trends.
- 9.6 Another recent development is the supply of prebuilt bathroom capsules from China (with water heaters included) and containers of complete bathroom fittings being imported, including the water heater. Rheem sees this trend only increasing over time to meet regional housing shortages.

PART C: COMPETITIVE ASSESSMENT

10 Counterfactual and market definition

Counterfactual

- 10.1 It appears likely that if Rheem does not acquire Peter Cocks it will be sold to another party (potentially an existing industry participant) so will cease to be an independent player in the market irrespective of the Proposed Transaction. Alternatively, it may be that the status quo is the appropriate counterfactual. Rheem does not believe this is a case where the choice of counterfactual is material to the outcome of the competition analysis. Whichever counterfactual is selected, there is no substantial difference in competition in the counterfactual when compared with the factual, for the reasons discussed below.

Market definition

- 10.2 Rheem submits that the appropriate market definition for analysis of the proposed merger is the nationwide supply of hot water heaters to wholesalers (**Hot Water Heater Market**).

Product dimension

- 10.3 Rheem has considered the extent to which it is appropriate to define the market by product type (for example, electric mains pressure storage heaters). However, a range of factors point to a broader Hot Water Heater Market being the appropriate starting point for analysis:
- 10.3.1 Conceptually, as previously noted by the Commission¹², although hot water systems are differentiated in terms of the technology they employ and the method of delivering hot water, the end product from all water heating systems is hot water.

¹⁰ The Victoria State Government media release from 17 September 2015 is available at <http://www.premier.vic.gov.au/new-rinnai-manufacturing-facility-to-create-160-new-jobs>

¹¹ For example, Reece Australia Limited has introduced a house brand 'Thermann' line of water heaters.

¹² New Zealand Commerce Commission, *Decision No. 452 - Paloma Industries Limited and Southcorp Water Heaters New Zealand Limited* (18 January 2002).

- 10.3.2 The growth in the gas continuous flow segment of the market and the static nature of the electric mains pressure segment for a number of years is also strongly indicative of demand side substitutability. Import statistics show that gas continuous flow sales have increased by 26% from year ending March 2011 to year ending March 2014, whilst during the same period total electric storage water heater sales (mains and low pressure) have declined by 16%.¹³
- 10.3.3 The rise in popularity of delivered LPG as an alternative to a natural gas connection to a home has meant that all homes in New Zealand have the capability to have a gas water heater, irrespective of whether they are near a natural gas reticulated supply. In several towns in the South Island, LPG is reticulated through a pipe network making gas easily accessible to homeowners. Approximately [] of Rheem's South Island sales of hot water heaters are gas continuous flow.
- 10.3.4 Solar is substitutable both from a demand and supply side perspective.
- 10.4 Even if the market for the purpose of the Commerce Act is defined more narrowly (which Rheem does not believe is appropriate), Rheem does not believe it changes the outcome of the competition analysis. This is because key competitors such as Rinnai and Dux supply a range of different types of water heaters, and both companies are owned by Japanese corporations, Rinnai Japan and Noritz Japan, who manufacture gas water heaters in Japan for worldwide export.

Customer dimension

- 10.5 While there are certainly water heaters which are more suited to commercial as opposed to domestic use, Rheem does not believe separate market definition is helpful to competition analysis of the proposed merger. This is consistent with the approach taken by the Commission in 2002. Among other things, the differentiator between commercial and residential is often simply the size of applicable unit. While dairy cylinders are not substitutable from a demand perspective, as noted, they are substitutable from a supply side point of view and should not be considered a separate market for the purpose of competition analysis.

Geographic dimension

- 10.6 The appropriate market definition is nationwide, although Rheem submits that the regional focus and brand awareness of Peter Cocks is relevant to the extent of the constraint currently provided by Peter Cocks in that market. This is discussed further in paragraph 11.2.

Supply chain dimension

- 10.7 The appropriate market definition is the supply of product to wholesalers (distributors and plumbing merchants).

11 Competition analysis

¹³ See Appendix 8.

Identification of overlaps and closeness of competition

- 11.1 Rheem and Peter Cocks both supply electric storage water heaters for residential and commercial use. They also both supply solar capable hot water cylinders, although, as noted above, Rheem can supply solar panels and cylinders.
- 11.2 While there is competition between Rheem and Peter Cocks on a regional and national basis, Rheem submits that the degree of restraint imposed on Rheem by Peter Cocks in the Hot Water Heater Market is limited to an extent by:
- 11.2.1 the lack of brand awareness of Peter Cocks outside the South Island; and
- 11.2.2 the freight disadvantage Peter Cocks suffers supplying units outside the South Island.

These factors, amongst other things, also limit the growth prospects of Peter Cocks were it to remain an independent market participant. This is discussed further in paragraph 11.22 below.

Constraints from existing competition

- 11.3 The table below sets out the estimated market shares of the merged entity and competitors in the Hot Water Heater Market.¹⁴ For completeness, we have also set out the shares of the relevant parties if the Commission were to define a market more narrowly to electric water heaters (which Rheem does not believe is appropriate).

Competitor	Estimate % market share in Hot Water Heater Market pre acquisition	Estimated % market share in the Hot Water Heater Market post acquisition	Estimated % market share in Electric Water Heater Market post acquisition
Rheem	[]	[] ¹⁵	[]
Rinnai	[]	[]	[]
Peter Cocks	[]	[]	[]
Bosch	[]	[]	[]
Sigma Sheetmetal Products Limited	[]	[]	[]
Dux	[]	[]	[]
Superheat Limited	[]	[]	[]
Valley Industries Limited	[]	[]	[]

¹⁴ Due to lack of available data, Rheem has estimated the market share figures based on a range of factors including total electric storage sales reported to EECA and reported total imports of gas continuous flow water heaters from Japan. This data is set out in Appendix 8.

¹⁵ [].

Solar Group Limited	[]	[]	[]
Aber	[]	[]	[]
Other	[]	[]	[]

- 11.4 As evident from the table above, although the market share of the merged entity is outside the Commission's safe harbours, any ability to exercise unilateral market power will remain constrained by the presence of three well-resourced international competitors and a range of smaller local competitors. Competitor details are set out in Appendix 4. Key competitors are discussed below.
- 11.5 Rinnai New Zealand Limited (**Rinnai**) is a subsidiary of Japanese based Rinnai Corporation and is part of the global Rinnai Group originally founded in 1920. Rinnai acquired HJ Cooper Limited, a New Zealand manufacturer and distributor of electric hot water systems and solar technology, in 2012. Rinnai is now a major manufacturer and supplier of a full range of continuous flow gas water heaters, electric hot water cylinders (both mains and low pressure), hot water heat pump, instant boiling water dispensers and commercial cylinders nationwide.
- 11.6 Robert Bosch (Australia) Pty Limited (**Bosch**) is part of the global Bosch Group based in Germany, a leading global supplier of technology and services. Bosch supplies continuous flow gas water heater, hydronic heating boilers and heat pump water heaters to residential and commercial customers nationwide through its New Zealand commission agent Robert Bosch Limited.
- 11.7 Australian manufacturer, Dux Manufacturing Limited (**Dux**), currently distributes electric storage water heaters in New Zealand through Caroma Industries (NZ) Limited (a New Zealand subsidiary of GWA Group Holdings Limited). GWA Group Limited sold Dux to Noritz Corporation (a company listed on the Tokyo Stock Exchange and the leading Japanese manufacturer of household water heaters) in November 2014. Noritz is a key competitor of Paloma in Japan. Our understanding is that Dux is reviewing its distribution in New Zealand since being acquired by Noritz.
- 11.8 Sigma Sheetmetal Products Limited is a privately owned manufacturer of 'Triumph' branded electric hot water cylinders (mains and low pressure) and boilers water units, with the company's main sales focus being the North Island. It has recently acquired Solarmaster Limited. Solarmaster Limited manufactures 'Combo' branded hot water cylinders and 'Solarmax' branded solar panels, supplied through major plumbing outlets nationwide.
- 11.9 South Island based company, Superheat Limited (previously named Multi Machinery (Superheat) Limited), manufactures and supplies hot water cylinders (both mains and low pressure), dairy cylinders, and boiler units for domestic and commercial use nationwide.
- 11.10 Privately owned Valley Industries Limited manufactures hot water cylinders (both mains and low pressure) and wetbacks for residential and commercial use, with a particular focus on the lower South Island.

- 11.11 Solar Group Limited is a privately owned supplier of solar systems, including ‘Solahart’¹⁶ branded solar hot water panels and cylinders, and ‘GreenGlo’ branded hot water cylinders (both mains and low pressure) nationwide.

Constraints from expansion and entry

Expansion

- 11.12 Rheem's view is that Rinnai has a significant potential for further expansion. It already has a wide product range with a large New Zealand factory with excess capacity. As a global player, Rinnai also has relatively easy access to significant amounts of capital. As noted, Rinnai Australia has recently announced the construction of a brand new modern factory to manufacture vitreous enamel steel electric water heaters for the local market and for export to countries including New Zealand.¹⁷ The factory will have a capacity of 100,000 units per annum.
- 11.13 Similarly Bosch and Dux¹⁸ have significant potential to expand supply of imported products if the merged entity sought to exercise market power. Both companies are large global players in water heater manufacturing and distribution. Dux imports smaller size electric water heaters from a factory in China. Bosch has factories throughout the world.
- 11.14 The other market participants have some ability to expand in varying degrees albeit they generally face capital constraints given their private ownership structures.
- 11.15 There are few constraints to competing in the low pressure market segment due to the low capital involved to manufacture a copper tank, and the 'jobbing' nature of the process. All market participants in New Zealand with manufacturing capability manufacture low pressure. Mains pressure can require more capital and additional expertise. However, the technology improvements in stainless steel has meant that inner tanks (barrels) can be manufactured in small quantities locally in New Zealand, or in mass production on higher speed machines in overseas countries, imported into New Zealand and then foamed and finished in a New Zealand factory. This is the method used by Rinnai and Peter Cocks for mains pressure manufacture.
- 11.16 Rheem submits that the threat of expansion satisfies the LET test (likely, sufficient in extent and timely) in that:
- 11.16.1 Expansion is likely if prices were to increase post -merger particularly given the recent Australasian capacity increases.
- 11.16.2 Expansion will be meaningful in scale given the potential of the major players to expand as discussed above.
- 11.16.3 Expansion is likely to occur in a timely manner.

¹⁶ The 'Solahart' brand is owned by Rheem Australia.

¹⁷ See note 10.

¹⁸ Although Dux products are currently generally designed for the Australian market, they do export to New Zealand and are capable of manufacturing direct substitutes to New Zealand mains pressure models, for example their 180L model.

Entry

- 11.17 There are no material barriers to entry, in particular by way of imports. An importer would need to find a suitable manufacturer from anywhere around the world and establish that the product meets New Zealand electrical, energy efficiency and durability standards. If the manufacturer did not have an 'off the shelf' model that suited the importer could specify the design to the manufacturer who would then make the New Zealand variant for them. The importer would import the product in containers, contact merchants and sell the products. Essentially there is no difference between importing water heaters and any other electrical or gas appliance.
- 11.18 There are a range of global players who could enter the New Zealand market by way of imports. These include AO Smith, BDR Thermea Group, Bradford White, KD Navien, GE, Whirlpool, Takagi, Noritz, Ariston, Hyundai, Haier and Sacon (who already supply small tanks to Dux/Thermann in Australia).
- 11.19 Given the relative ease in which an importing relationship could be established, Rheem submits that the threat of entry satisfies the LET test.

Countervailing power of customers

- 11.20 Large distributors and plumbing merchants have countervailing market power, a further factor suggesting the merger will not substantially lessen competition in the Hot Water Heater Market. Among other things, this includes the threat of a large player developing its own 'house brand' to compete with Rheem. This could be by way of a large distributor sponsoring entry into the market by way of imports of one of the global players discussed in paragraph 11.18.

Co-ordinated market power

- 11.21 In its 2002 decision, the Commission found that the Hot Water Heater Market had few characteristics that were likely to be conducive to collusion. Rheem submits this is still the position and analyses each factor used by the Commission to test for collusion below.

Factors	Comment
Homogenous products	To some degree.
Small number of competitors and absence of particularly vigorous/strong competitor outside co-ordinating firms	Moderate levels of concentration and a number of smaller competitor firms outside core group.
Repeat interactions	Yes.
Firms of a similar size and cost structure	There are a range of competitors of different sizes and cost structures.
Little innovation and stable demand	Evidence suggests that market is innovative from a technological point of view and will continue to evolve. Demand is increasing in some areas of New Zealand and decreasing in others.

Fringe competitors	Yes.
Firms that can readily observe each other's prices and volumes	Relative lack of transparency in comparison with some industries.
Firms interrelated through association or cross partial ownership	Not to any meaningful degree.

- 11.22 Even if the market was conducive to co-ordinated behaviour, Rheem submits that the acquisition would not materially enhance the prospects for any co-ordinated behaviour.¹⁹ Peter Cock's South Island location and [] previously discussed mean that it is not well placed to play the role of a 'maverick' to any material degree. Rheem's view is that [].

Summary of competitive analysis

- 11.23 In summary:

- 11.23.1 the degree of competition between Rheem and Peter Cocks is not as close compared to some of its competitors due to Peter Cocks' South Island focus;
- 11.23.2 the removal of that competition as a result of the acquisition will not be likely to result in higher prices or a reduction in quality/service by the merged entity that is substantial because of the presence of remaining well-resourced competitors that have excess capacity and the potential to expand;
- 11.23.3 the threat of entry will also constrain any exercise of market power by the merged entity; and
- 11.23.4 the market is not particularly conducive to coordinated conduct and the loss of competition from Peter Cocks will not materially facilitate coordinated conduct.

Further documentation/information requested

- 11.24 As requested by the Commission, Rheem provides the following additional documentation/information.

Names and contact details of industry associations

- 11.25 Rheem is a member of the following associations:

Association	Contact details
Plumbers Distributors Association of New Zealand	Chairperson: Jeff La Haye, jeff@dux.co.nz c/- Retail NZ PO Box 12086 Wellington 6144 Ph: 0800 472 472

¹⁹ This assumes that the appropriate counterfactual is the status quo where Peter Cocks remains an independent firm.

Employers Manufacturers Association (Auckland branch)	Auckland West Regional Contact: Kayne Franich, kayne.franich@ema.co.nz Private Bag 92066 Victoria Street West Auckland 1142 Ph: 09 367 0900
Master Plumbers Gasfitters & Drainlayers (a business partner of Rheem)	Chief Executive Officer: Greg Wallace, gwallace@masterplumbers.org.nz PO Box 6606 Marion Square Wellington 6141 Ph: 04 384 4184

11.26 Peter Cocks is a member of the following associations:

Association	Contact details
Plumbers Distributors Association of New Zealand	Chairperson: Jeff La Haye, jeff@dux.co.nz c/- Retail NZ PO Box 12086 Wellington 6144 Ph: 0800 472 472
Canterbury Employers' Chamber of Commerce	Chief Executive: Peter Townsend, petert@cecc.org.nz PO Box 359 Christchurch 8140 Ph: 03 366 5096

Key competitors

11.27 See Appendix 4.

Copies of most recent financial statements

11.28 The Parties' most recent annual reports, including audited accounts, are provided at Appendix 5 and Confidential Appendix 6.

Key customers

11.29 See Confidential Appendix 7.

PART D: CONFIDENTIALITY

12 Reasons for seeking confidentiality

12.1 Confidentiality is sought in respect of the information in this application that is contained highlighted in bold and square bracketed. Confidentiality is sought for the purposes of section 9(2)(b) of the Official Information Act 1982 on the grounds that:

12.1.1 The information is commercially sensitive and valuable information which is confidential to the participants; and

12.1.2 Disclosure would be likely to unreasonably prejudice the commercial position of the participants, as the parties providing the information.

12.2 Rheem requests that it be notified of any request made to the Commission under the Official Information Act 1982 for release of the confidential information. Rheem also requests that the Commission seek and consider Rheem's views as to whether the information remains confidential and commercially sensitive at the time responses to such requests are being considered.

PART E: DECLARATION

I, Steve Bullock, have prepared, or supervised the preparation, of this notice seeking clearance.

To the best of my knowledge, I confirm that:

- all the information specified by the Commission has been supplied;
- if the information has not been supplied, reasons have been included as to why the information has not been supplied;
- all information known to me that is relevant to the consideration of this notice has been supplied; and
- all information supplied is correct as at the date of this notice.

I undertake to advise the Commission immediately of any material change in circumstances relating to the notice.

I understand that it is an offence under the Commerce Act to attempt to deceive or knowingly mislead the Commission in respect of any matter before the Commission, including in these documents.

I am a director/officer of the company and am duly authorised to submit this notice.

Steve Bullock, General Manager, Rheem New Zealand Limited

.....
Signed by Steve Bullock

..... 2015
Date

PUBLIC VERSION

CONFIDENTIAL APPENDIX 1

Corporate structure chart of Rheem

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APPENDIX 2

Corporate structure of Peter Cocks

Peter Cocks (2010) Ltd is a limited liability company based in and registered in New Zealand, privately owned with no subsidiaries.

PUBLIC VERSION

CONFIDENTIAL APPENDIX 3

Sale and Purchase Agreement

[]

APPENDIX 4

Contact details of competitors present in New Zealand

Competitor	Contact details	Water Heating Products	Brands	Comments
Rinnai New Zealand Limited	PO Box 53177, Auckland Airport, Auckland 2150 Ph: +64 9 257 3800 Fax: +64 9 257 3899 http://www.rinnai.co.nz/	Electric storage water heaters (mains and low pressure) Gas continuous flow water heaters Solar water heaters Electric heat pump water heaters.	Rinnai HJ Cooper Economax	
Sigma Sheetmetal Products Limited	PO Box 13-13, Auckland Ph: +64 9 636 3657 Fax: +64 9 636 3658 http://sigmasheet.co.nz/	Electric storage water heaters (mains and low pressure) Solar water heaters	Triumph Solarmaster	Recently acquired Solarmaster
Robert Bosch (Australia) Pty Limited	Unit L/61 Hugo Johnstone Drive, Penrose 1061 Ph: 0800 54 33 52 http://www.bosch.co.nz	Gas continuous flow water heaters Electric heat pump water heaters.	Bosch	

Competitor	Contact details	Water Heating Products	Brands	Comments
Dux (Noritz)	<p>Agent: GWA Bathrooms & Kitchens, 17 Allens Rd, East Tamaki, Auckland 2013</p> <p>Ph +64 9 279 2700</p> <p>http://www.dux.com.au/</p>	<p>Electric storage water heaters (mains pressure only)</p> <p>Gas continuous flow water heaters</p> <p>Electric heat pump water heaters.</p>	Dux	<p>Large manufacturer in Australia. Business recently sold by GWA to Noritz (Japan). GWA understood to be still representing Dux in NZ.</p> <p>Not to be confused with Dux Industries (NZ), part of Aliaxis group.</p>
Superheat Limited	<p>PO Box 19-001, Christchurch 8241</p> <p>Ph +64 3 389 9500</p> <p>Fax +64 3 389 9666</p> <p>http://www.superheat.co.nz/</p>	Electric storage water heaters (mains and low pressure)	Superheat Multi Machinery	Original name was Multi Machinery (Superheat) Ltd, so still commonly referred to as "Multi Machinery".
Valley Industries Limited	<p>151 Kaikorai Valley Rd, Dunedin</p> <p>Ph +64 3 476 7674</p> <p>Fax +64 3 476 7654</p> <p>http://www.valley.co.nz/</p>	Electric storage water heaters (low pressure only)	Valley Industries	
Solar Group Limited	<p>PO Box 35588, Browns Bay, Auckland</p> <p>Ph: +64 9 477 2999</p> <p>http://solargroup.co.nz/</p>	<p>Solar water heaters</p> <p>Electric storage water heaters (mains pressure only)</p>	Greenglo Solahart, Edwards (Rheem Australia brands)	Has distributor agreement with Rheem Australia for Solahart and Edwards products. No link to Rheem NZ.

Competitor	Contact details	Water Heating Products	Brands	Comments
Parex Industries	PO Box 21-102, Henderson 0650 Ph+64 9 836 6566 http://www.parex.co.nz/	Heat pump water heaters. Instantaneous electric water heaters	Ecospring Stiebel Eltron Insinkerator	
Aber	P O Box 10095, Te Rapa, Hamilton 3241 P +64 7 849 7585 F +64 7 849 1749 http://www.aber.co.nz/	Gas continuous flow water heaters Gas storage water heaters	Paloma Ruud	Paloma products imported by Rheem. Ruud products supplied direct by Rheem USA.
Quantum	PO Box 303519, North Harbour, Auckland Ph +61 2 9699 7444 Fax +61 2 9578 9444 http://www.quantumenergy.co.nz/	Electric heat pump water heaters.	Quantum	
Econergy	P.O Box 12-645, Penrose, Auckland 1642 Ph: 0800 326 637 http://www.econergy.co.nz/	Electric heat pump water heaters	Econergy	
Aquafire	PO Box 52 189, Kingsland 1352, Auckland Ph: 0800 278 234 / 0275 866 955 http://www.aquafire.co.nz/	Electric heat pump water heaters.	Aquafire	
Azzuro Solar	PO BOX 76642, Manukau City 2241 Ph: +64 9 279 5509 http://www.azzurosolar.co.nz/	Electric heat pump water heaters and solar systems	Azzuro	

Competitor	Contact details	Water Heating Products	Brands	Comments
Waterware	PO Box 58-776, Greenmount, Manukau 2141 Ph:+64 9 273-9191 Fax:+64 9 273-9194 http://www.waterware.co.nz/	Electric storage water heaters (mains pressure only) Gas boilers	Flow+, Vaillant, Fondital	Cylinders imported from RM Cylinders in UK.
Mitsubishi Electric	PO Box 30772, Lower Hutt 5040 Phone (04) 560 9147 Fax (04) 560 9133 http://www.mitsubishi-electric.co.nz	Heat pump water heaters	Mitsubishi Electric	

PUBLIC VERSION

APPENDIX 5

Copies of annual reports and financial statements for Rheem

See attached.

PUBLIC VERSION

CONFIDENTIAL APPENDIX 6

Copies of annual reports and financial statements for Peter Cocks

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CONFIDENTIAL APPENDIX 7

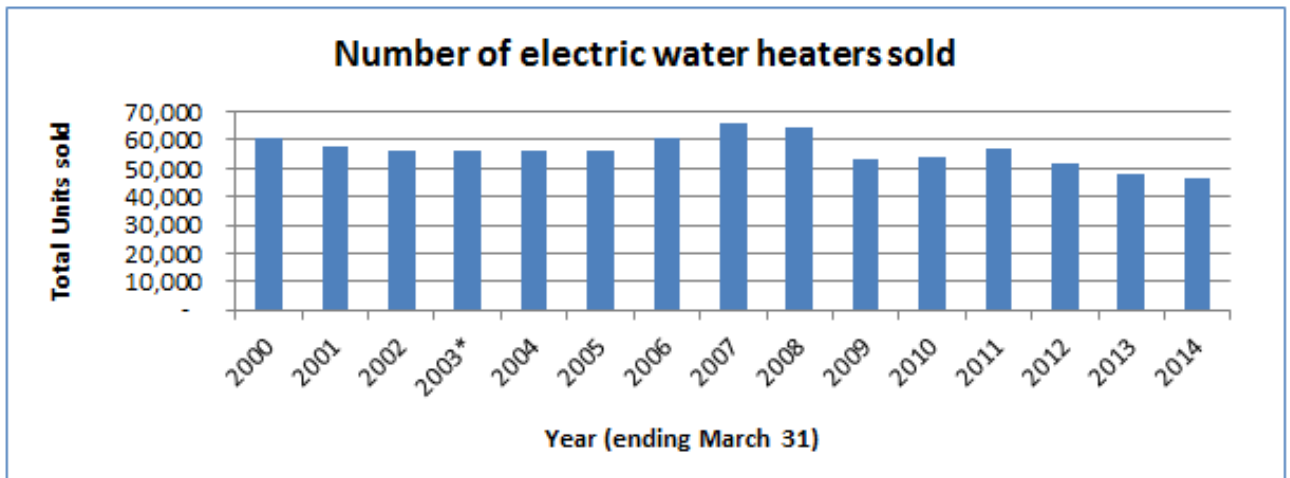
Contact details and revenue for key customers

Key customer	Contact details	Rheem: revenue for year ended 30 June 2015	Peter Cocks: revenue for year ended 31 March 2015

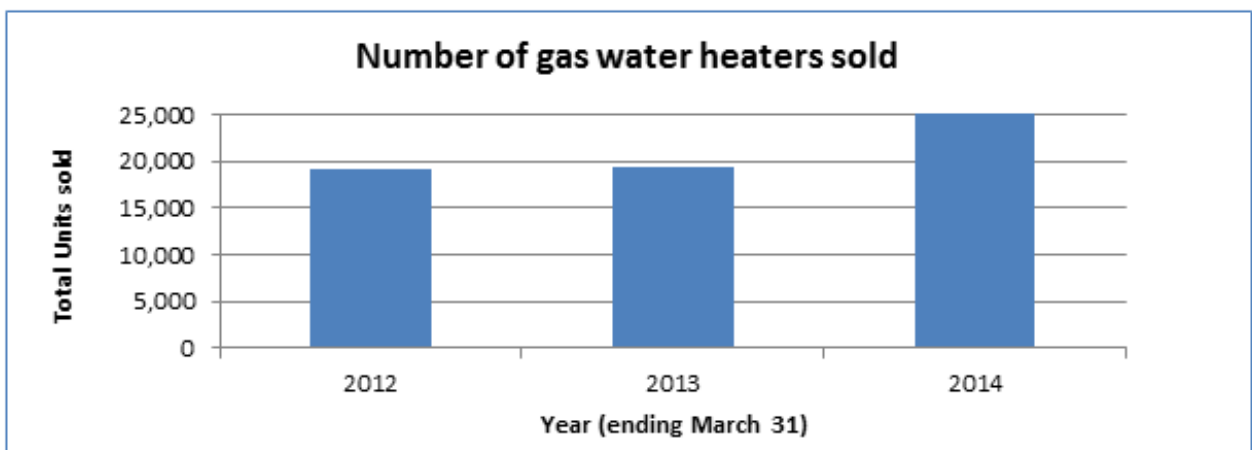
APPENDIX 8

Resource from Energy Efficiency & Conservation Authority²⁰

1 Electric Storage Water Heaters - sales trends

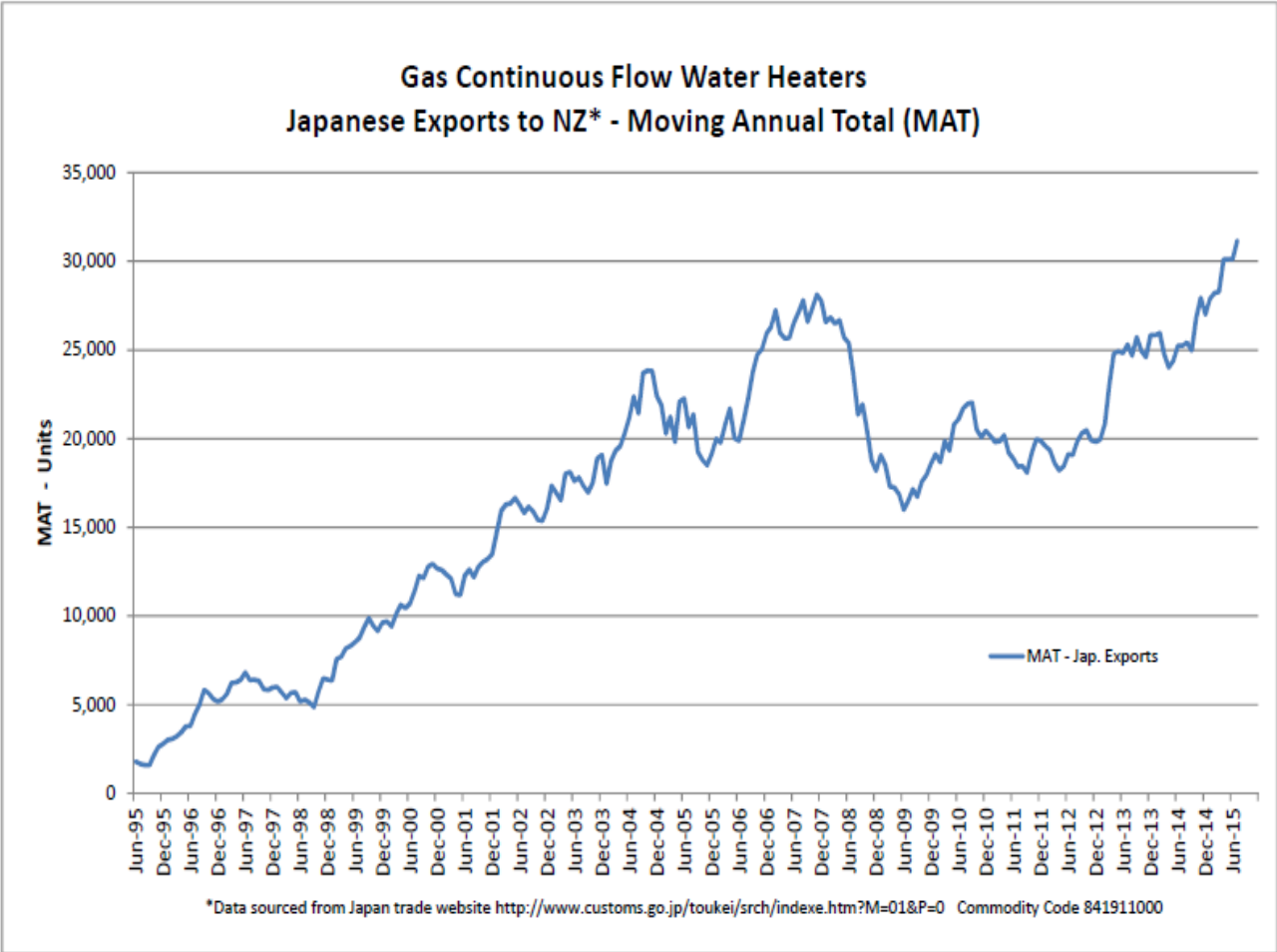


2 Gas Water Heaters - sales trends



²⁰ Available online at <https://www.eeca.govt.nz/standards-ratings-and-labels/equipment-energy-efficiency-programme/energy-savings-achieved-under-e3/>

Recorded exports of gas continuous flow water heaters from Japan to New Zealand²¹



²¹ Available online at <http://www.customs.go.jp/toukei/srch/indexe.htm?M=01&P=0>